

**Heritage Area Administration and Financial Feasibility  
for the Sacramento-San Joaquin Delta National Heritage Area feasibility study**

**PROPOSED OPTIONS  
July 2011**

*National Heritage Area (NHA) feasibility studies, as recommended by National Park Service guidelines, should describe the entity that would be responsible for managing the proposed NHA. This document describes two different options for a Delta NHA management entity, discusses the financial capabilities of each proposed management entity, and explains language that could be included in enabling legislation, as well as other measures that could be taken, to ensure protection of private property rights.*

*This document is meant to stimulate discussion to further inform the NHA feasibility study. Input from local stakeholders is an integral part of this process. Interested persons can email comments to Alex Westhoff of the Delta Protection Commission at [alex.westhoff@delta.ca.gov](mailto:alex.westhoff@delta.ca.gov) or call (916) 776-2290, no later than August 26, 2011. This document will also be a topic of discussion at a public meeting, which will be scheduled for late August.*

**Management Entity**

The management entity is the organization responsible for developing the NHA management plan, raising and administering funds, running projects, conducting public outreach and other necessary work to manage the NHA in a way that is consistent with the NHA's vision, mission and goals. Several types of organizations have served to manage existing NHAs including nonprofits (which is the most common type), federal commissions, state agencies, and public corporations. The management entity should be composed of a diverse membership of representatives from local stakeholder groups to ensure that the full spectrum of varied interests is involved in decision making. Representatives from National Park Service serve on NHA management entities in advisory, non-voting roles.

Additionally, the management entity must be capable of meeting the 50% cash matching requirements for the federal funds which may become available upon NHA designation. Federal funding awards range from \$150,000 to \$1,000,000 (<https://www.cfda.gov/?s=program&mode=form&tab=step1&id=1338224a31bbba3f048ac210c9eafc08>), with a maximum of \$1,000,000/year for 10 years. Federal resources may not be able to be specifically identified during the study, but what may be gauged is the past or potential capacity and creativity of the management entity to attract financial support. The feasibility study must also include a conceptual financial plan of approximately five years in length, which outlines the major roles for participating

organizations, demonstrates the ability of the management entity to meet federal matching requirements and assesses the entity's financial capabilities.

This memo proposes two different options for management entities. The first proposed option for the management entity is the Delta Protection Commission (DPC), an existing state agency in the Delta. The second proposed option is a new non-profit organization specifically developed to be the Delta NHA management entity. General details of each option are discussed below.

### **Option 1 - Delta Protection Commission**

The DPC was established by the Delta Protection Act of 1992. The mission of the DPC is to adaptively protect, maintain, and where possible, enhance and restore the overall quality of the Delta environment consistent with the Delta Protection Act and the Delta Plan. This includes, but is not limited to, agriculture, wildlife habitat, and recreational activities. The DPC's Land Use and Resource Management Plan is for the Primary Zone of the Delta, and consistency is required by local government general plans, whose planning areas fall within the Primary Zone.

The DPC was mandated with conducting this feasibility study through Senate Bill X7-1 (Simitian), but this legislation did not identify a NHA management entity, should designation occur. The legislation to designate the Delta as a NHA, which was introduced by Dianne Feinstein to the Senate in 2011, with companion legislation introduced by John Garamendi to the House of Representatives, does however identify the DPC as the proposed management entity.

The DPC is a locally recognized agency in the Delta, has an extensive network of local stakeholders to whom it conducts regular outreach to, and provides opportunities for input on issues by Delta residents. The DPC is governed by 15 members, with representation from the following organizations:

Contra Costa County Board of Supervisors	Central Delta Reclamation Districts
Sacramento County Board of Supervisors	North Delta Reclamation Districts
San Joaquin County Board of Supervisors	South Delta Reclamation Districts
Solano County Board of Supervisors	Business, Transportation and Housing Agency
Yolo County Board of Supervisors	Department of Food and Agriculture
Cities of Contra Costa and Solano Counties	Natural Resources Agency
Cities of Sacramento and Yolo Counties	State Lands Commission
Cities of San Joaquin County	

If there is interest in further discussion regarding the DPC as the proposed management entity, dialogue will be initiated about how to ensure comprehensive representation to the DPC from local groups affected by the NHA. An advisory team could perhaps be developed, with a spectrum of members from local stakeholder groups, who closely

work with the DPC on the development of the NHA Management Plan and other important relevant matters. This advisory team could consist of members from local groups representing recreation, businesses, cultural and natural resources, landowners, agriculture, etc.

### *Funding Capabilities*

Funding for the DPC comes from two special state funds: the California Environmental License Plate Fund and the Harbors and Watercraft Fund. The DPC has also been proactive in obtaining grant funds to carry out specific projects such as Working Landscapes, the Great California Delta Trail, this project - the National Heritage Area Feasibility Study, and more. Some of the cash grant funding sources to the Commission over the past five years has included: National Trust for Historic Preservation, State Parks Foundation, California Coastal Conservancy, Department of Fish and Game, and Solano County.

In the case of certain projects, such as Working Landscapes and links of the Delta Trail, the DPC administers the funds from the funding sources to the project partners, which is similar to the role that NHA management entities play as grant administrators. Potential projects that would develop from a Delta NHA could include Historic Preservation, Interpretation, Environmental and Cultural Education, Branding and Marketing, Signage and Visitor Amenities. The specific projects would depend on interested partners, and the Commission and the partners would have to investigate the relevant grantees or other funding sources, which would vary depending on the project. With the current fiscal situation of the state, it is unlikely that state funds would be available. A non-profit organization could potentially be developed for the purpose of fundraising. The geographical location of the Delta is potentially advantageous in terms of possible funding sources from foundations in the urban centers that surround the Delta. Grants could be sought from foundations located in the San Francisco Bay Area, the Sacramento Region, and the greater Central Valley.

### **Option 2 – Development of a new, non-profit organization**

A second option of a proposed management organization for a Delta NHA is the development of a new, non-profit organization. Non-profit organizations are the most common NHA management entities, and generally function as public charities. Their typical structure consists of a board of directors, with 12-16 members, and executive committees with 5-7 members who oversee operations. The boards are structured to have diverse representation including local governments, state agencies, economic development, natural, cultural and historic resources, and local residents. Advisory committees with diverse representation are often formed to help further broaden local stakeholder input. At the first public meeting held for this feasibility study in June of 2010, several participants identified a key benefit of a NHA in the Delta as being the development of a non-profit, private 501c3 in order to retain local control of the Delta's heritage.

As with option 1, if interest in further pursuit of this proposed management entity is expressed in the public process, then discussion could be initiated on specific representation that would need to be included. The conceptual NHA boundaries have not yet been decided upon, which could have significant influence on the membership of the management entity as different geographical areas have different resources and affiliated stakeholder groups, as well as different local government organizations.

### *Funding Capabilities*

Also if there is interest in the option, then the financial capabilities would need to be closely examined. A fundraising strategy would need to be outlined as part of the conceptual financial plan which would be included in the feasibility study. As discussed in option 1, funding could be sought from foundations in the areas which surround the Delta. Current conditions have yielded particularly challenging economic times for non-profit organizations. However, as other NHAs have shown, obtaining stature and recognition on a national level can help lead to increased funding opportunities. On average, existing NHAs are able to leverage \$8 of funding from other sources, from every \$1 of federal funding.

### **Local Protection Measures**

Throughout the public process, a number of stakeholders have expressed concerns that NHA designation will inflict upon private property rights and that a NHA management entity will have land use authority. DPC staff have made contact with directors of other NHAs in the U.S., who stated that similar concerns had been expressed in their areas during the feasibility study process or early stages of NHA designation, but these concerns generally went away with time as citizens realized that the NHA was not threatening their private property rights.

The DPC fully supports the protection of private property rights in the proposed Delta NHA. The feasibility study for a Santa Cruz Valley National Heritage Area in Arizona includes specific language regarding private property and regulatory protections. Below is the exact language in the Santa Cruz Valley National Heritage Area bill passed by the House, which protects rights of property owners in the area. Language of a similar nature could be composed and incorporated into enabling legislation for a Delta NHA, as follows:

### ***SEC. 9. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.***

#### ***(a) Clarification- Nothing in this Act--***

*(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;*

*(2) requires any property owner to permit public access (including access by Federal, State, Tribal, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, Tribal, or local law;*

*(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, Tribal, or local agency, or conveys any land use or other regulatory authority to any local coordinating entity, including but not necessarily limited to development and management of energy, water, or water-related infrastructure;*

*(4) authorizes or implies the reservation or appropriation of water or water rights;*

*(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or*

*(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.*

***(b) Private Property Owner Protection-***

*(1) No privately owned property shall be preserved, conserved, or promoted by the management plan for the National Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.*

*(2) Any owner of private property included within the boundary of the National Heritage Area shall have their property immediately removed from within the boundary by submitting a written request to the management entity.*

Additional research was done by the Commission in 2010 regarding tools that have been utilized by other NHAs in order to ensure protection of private property rights. These tools include: a City Council Resolution (Yuma Crossing NHA in Arizona), sections in other NHA's enabling legislation (Silos and Smokestacks NHA in Iowa, Mississippi Gulf Coast NHA in Mississippi, and many others), and language in the management plan in (Erie Canalway National Heritage Corridor in New York). These items, or extracts from these items, can all be viewed at the Commission's website at:

[www.delta.ca.gov/heritage.htm](http://www.delta.ca.gov/heritage.htm). Tools such as these could be utilized in a Delta NHA to ensure private property right protection.